

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed June 27, 2005. At the time of the Office Action, Claims 1-5, 7-16, and 18-22 were pending in this Application. Claims 6 and 17 was previously cancelled by Applicants. Claims 1-5, 7-16, and 18-22 were rejected. Claims 1, 3, 7, 11, 12, and 15 have been amended to further define various features of Applicants' invention. Claim 13 has been cancelled without prejudice. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §112

Claim 3 was rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants amend Claim 3 to overcome this rejection and respectfully request full allowance of said Claim as amended.

Rejections under 35 U.S.C. § 102

Claims 1 and 3-5 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,966,291 issued to Hermann Bäuml et al. ("Bäuml et al."). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1997). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the cited art as anticipatory by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

Applicants amended the independent claims to more clearly define the present invention. The plastic control plate is defined as being an single piece plate produced, for example, by injection molding. This limitation is disclosed in the specification on page 6, lines 7-11 and in all figures which show the plate as a single piece. Furthermore, according

to the independent claims 1 and 15, the plate comprises an opening with a bottom wall. The metal body plate rests with its bottom surface at least partly on this bottom wall. Finally, the claims define that the channel is formed by the heat conduction metal body plate and the integral body.

Bäumel does not disclose such an arrangement. First, Bäumel discloses an arrangement with a control plate consisting of two separate pieces. Second, Bäumel does not disclose an opening having a bottom wall on which the bottom surface of the metal body plate rests. The heat sink of Bäumel has merely an intermediate surface which rests on a bottom wall of an opening. Thus, Bäumel does not anticipate claim 1. Applicants respectfully submit that the dependent Claims 3-5 are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

Rejections under 35 U.S.C. §103

Claims 7-16 and 18-22 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,160,708 issued to Josef Loibl et al. ("Loibl et al.") in view of Baumel et al. Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

Claim 2 was rejected under 35 U.S.C. §103(a) as being unpatentable over Bäumel et al. Applicants respectfully traverse and submit the cited art does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success.

Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Regarding independent claim 15, the same arguments apply as stated above with respect to claim 1. Claim 7 has been amended to include the limitation of an integral control plate and a plurality of channels which are formed by at least one wall of the plastic control plate and at least one side of the metal heat conduction plate. This limitation is particularly shown in Figs. 1 and 5 of the present application.

As stated above Bäümel does not disclose an single piece control plate but rather a two piece housing. Furthermore, Bäümel does neither disclose nor suggest multiple channels which are separated from each other. Bäümel does define at best a single channel defined of the housing and the heat sink. The heat sink merely provides for ribs to create more surface area which can be cooled by the cooling liquid. however, no separate channels are formed as defined in independent claim 7.

Applicants respectfully submit that the remaining dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.


CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the claims as amended.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any to Deposit Account No. 50-2148 of Baker Botts L.L.P. in order to effectuate this filing.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants



Andreas Grubert
Limited Recognition No. L0225
Limited Recognition Under 37 C.F.R. §11.9(b)

Date: September 20, 2005

SEND CORRESPONDENCE TO:
BAKER BOTTS L.L.P.
CUSTOMER ACCOUNT NO. **31625**
512.322.2545
512.322.8383 (fax)